



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 24, 1994

Mr. Darrell G-M Noga  
Cooper, Huddleston & Aldous  
1999 Bryan Street, Suite 2300  
Dallas, Texas 75201

OR94-659

Dear Mr. Noga:

The City of DeSoto (the "city") received a request for information concerning legal fees paid by the city. You ask whether this information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28360.

The requestor asked for the "legal bills and itemized statements" from attorneys and law firms submitted to the city for the months of February through June, 1994. You have provided to this office for review, as responsive to the requests, the detailed statements your law firm sent to the city for the applicable time periods. You assert that this information is excepted from disclosure under section 552.103(a). To show the applicability of section 552.103(a), the city must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision Nos. 551 (1990); 350 (1982) at 3 (whether litigation is reasonably anticipated must be determined on a case-by-case basis.)

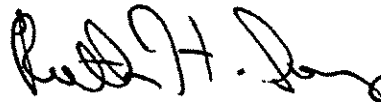
You have provided information to show that litigation is ongoing. A review of the statements indicates that the detailed information in the statements at issue is related to that litigation. However, the other information in the statements that concerns the hours worked, total fees, and general billing information must be released to the requestor. Open Records Decision No. 233 (1980) at 2. We have marked the information that may be withheld from disclosure under section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision No. 350 (1982) at 3.

You also contend that the requested information is excepted from disclosure under section 552.101 of the Government Code. The attorney-client privilege you discuss is most properly asserted in connection with section 552.107 rather than section 552.101. Open Records Decision No. 574 (1990). Section 552.107 protects information that reveals client confidences to an attorney or that reveals the attorney's advice, opinion, and recommendation to the client. The application of section 552.107 to attorney fee bills must be determined on a case-by-case basis. We conclude that the information showing attorney time and fees does not reveal client confidences or the attorney's legal advice, opinion and recommendation. Since we have already determined that the detailed information in these bills may be excepted under section 552.103(a), we do not need to address your argument that the statements are within the attorney-client privilege.

We also note that you relied upon earlier opinions of this office that held that a governmental body could withhold attorney fee bills under the attorney-client privilege. Open Records Decision Nos. 499 (1988); 399 (1983); 304 (1982). However, in Open Records Decision No. 589 (1991) this office stated that only client confidences and attorney advice, recommendation and opinion given within the context of an attorney-client relationship would be protected under section 552.107. Open Records Decision No. 574 implicitly overruled those earlier opinions. *Id.* at 1.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/MAR/rho

Ref.: ID# 28360

Enclosures: Marked documents

cc: Mr. M.P. Martin  
1409 Frenchman  
De Soto, Texas 75115  
(w/o enclosures)